IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 427 of 2005

Between:

Syed Jafar Ali, S/o.Sabir Ali,
H.No.2-95, Fathima Chicken Centre, Bheemaram,
Hanamkonda, Warangal Dist.

..... PETITIONER

AND

1 The Deputy Commissioner of prohibition & Excise, Warangal Division, Warangal Dist.
2 The Prohibition and excise Sub-Inspector, Prohibition and Excise Station, Warangal, Warangal Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the order (Notice) dated 16-12-2004 in Crime No.3133/2004/P&E/B2, passed by the 1st respondent in so far as it relates to a direction to furnish Bank Guarantee of Rs.40,000/- as a condition for release of Auto bearing No.AP 36V-0655 in favour of the petitioner as illegal and arbitrary and consequently to modify the condition of furnishing Bank Guarantee by way of furnishing third party surety or security and to pass such other order or orders.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

The auto of the petitioner bearing No.AP 36 V 0655 was seized by the Excise Officials on the allegation that it was used in transporting illicit liquor. Proceedings were initiated before the first respondent for confiscation of the vehicle. The petitioner submitted an application before the first respondent for interim custody of the vehicle. Through a notice dated 16-12-2004, the first respondent directed the petitioner to furnish bank guarantee for a sum of Rs.40,000/- from a Nationalised Bank, on a condition precedent, for release of the vehicle. The petitioner feels aggrieved by the same.

The petitioner contends that no illicit liquor as such was recovered from his vehicle and seizure was affected on the basis of the statement said to have been made by the accused in another case. It is also contended that the vehicle is very old and is the only source of livelihood for the petitioner. It is too early for this Court to record any finding as to the involvement of the petitioner. Be that as it may, once it has emerged that no liquor as such has been recovered directly from the vehicle of the petitioner, he cannot be required to meet very onerous conditions.

In the totality of the circumstances, the writ petition is disposed of directing that the vehicle of the petitioner shall be released on his furnishing bank guarantee for a sum of Rs.10,000/- (Rupees ten thousand only) from a Nationalised Bank and furnishing undertaking to the effect that he shall not alienate the vehicle and would produce the same as and when directed by the first respondent. No order as to costs.

20-01-2005

Note: Issue C.C. by Monday.

(B/o)

kdl

To

1 The Deputy Commissioner of prohibition & Excise, Warangal Division, Warangal Dist.
2 The Prohibition and excise Sub-Inspector, Prohibition and Excise Station, Warangal, Warangal Dist.

3 Two C.Cs. to the Government Pleader for Prohibition & Excise, High Court of A.P., Hyderabad, (OUT).

4 Two C.D. Copies.